

Honorable Barbara J. Rothstein

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

FREDRICK and ANNALESA THOMAS; and
JO-HANNA READ, as Guardian ad Litem of
E.T., a minor,

Plaintiffs,

v.

JASON CANNON; BRIAN MARKERT;
RYAN MICENKO; MICHAEL WILEY;
MICHAEL ZARO; CITY OF FIFE; and CITY
OF LAKEWOOD;

Defendants.

FREDRICK THOMAS and ANNALESA
THOMAS, as Co-Administrators of the Estate
of Leonard Thomas, and its statutory
beneficiaries,

Plaintiffs,

v.

BRIAN MARKERT; MICHAEL WILEY;
NATHAN VANCE; MICHAEL ZARO; CITY
OF FIFE; and CITY OF LAKEWOOD;,

Defendants.

Nos. 3:15-05346 BJR
3:16-cv-05392
CONSOLIDATED CASES

VERDICT

We the Jury answer the questions submitted by the Court as follows:

Question One

Question 1: Plaintiffs E.T. and the Estate of Leonard Thomas bring a Fourth and Fourteenth Amendment constitutional claim for the unreasonable seizure of E.T. from Leonard Thomas. Did any of the Defendants seize E.T. from his father Leonard Thomas in an unreasonable manner, or cause E.T. to be unreasonably seized?

Yes ☒ No ☐

If you answered yes, go to Questions 1a and 1b. If you answered no, go directly to Question 2.

Question 1a. Which Defendants committed or caused the seizure found in Question 1?

Michael Zaro	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
Michael Wiley	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
Brian Markert	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
City of Lakewood	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>

Question 1b. Which Plaintiffs were damaged by the seizure found in Question 1?

E.T.	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
Estate of Leonard Thomas	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>

Question Two

Question 2: Plaintiff the Estate of Leonard Thomas brings a Fourth Amendment constitutional claim for excessive force. Did any of the Defendants use excessive force against Leonard Thomas, or cause excessive force to be used against him?

Yes ☒ No ☐

If you answered yes, go to Questions 2a. If you answered no, go directly to Question 3.

Question 2a. Which Defendants caused the excessive force found in Question 2?

Michael Zaro	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
Michael Wiley	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
Brian Markert	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
City of Lakewood	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>

Question Three

Question 3: Plaintiffs E.T., Fred Thomas, and Annalesa Thomas bring a Fourteenth Amendment claim for deprivation of their familial relationship with Leonard Thomas. Did Michael Zaro cause E.T., Fred Thomas, or Annalesa Thomas to be deprived of their familial relationship with Leonard Thomas by acting with deliberate indifference to the consequences of his (Zaro's) actions and decisions?

Yes ☒ No ☐

If you answered yes, go to Question 3a and 3b. If you answered no, go directly to Question 4.

Question 3a: Is the City of Lakewood also responsible?

Yes ☒ No ☐

Question 3b. Which of the plaintiffs were damaged by the deprivation found in Question 3?

E.T.	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
Fred Thomas	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
Annalesa Thomas	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>

Question Four

Question 4: Plaintiffs the Estate of Leonard Thomas, E.T., Fred Thomas, and Annalesa Thomas bring a Fourth Amendment constitutional claim for unreasonable seizure of their house through use of the explosive breach. Did any of the Defendants seize Plaintiffs' property through use of the explosive breach in an unreasonable manner, or cause their property to be unreasonably seized?

Yes ☒ No ☐

If you answered yes, go to Questions 4a and 4b. If you answered no, go directly to Question 5.

Question 4a. Which of the Defendants committed or caused the seizure?

Michael Zaro Yes ☒ No ☐

Michael Wiley Yes ☒ No ☐

City of Lakewood Yes ☒ No ☐

Question 4b. Which of the Plaintiffs were damaged by the seizure found in Question 4?

E.T. Yes ☒ No ☐

Estate of Leonard Thomas Yes ☒ No ☐

Annalesa Thomas Yes ☒ No ☐

Fred Thomas Yes ☒ No ☐

Question Five

Question 5: Plaintiffs the Estate of Leonard Thomas and E.T. bring a Fourth Amendment claim for unreasonable seizure of their dog. Did any of the Defendants unreasonably seize the dog when they killed him, or cause an unreasonable seizure of the dog?

Yes ☒ No ☐

If you answered yes, go to Questions 5a and 5b. If you answered no, go directly to Question 6.

Question 5a. Which Defendants committed or caused the seizure found in Question 5?

Michael Wiley

Yes ☒

No ☐

Nathan Vance

Yes ☐

No ☒

Question 5b. Which Plaintiffs were damaged by the seizure found in Question 5?

E.T.

Yes ☐

No ☒

Estate of Leonard Thomas

Yes ☒

No ☐

Question Six

Question 6: Plaintiff Fred Thomas brings a Fourth Amendment constitutional claim for unreasonable seizure of his person. Did any of the Defendants seize Fred Thomas, or cause his person to be seized, without legal cause or with excessive force?

Yes ☒ No ☐

If you answered yes, go to Questions 6a. If you answered no, go directly to Question 7.

Question 6a. Which of the Defendants committed or caused seizure found in Question 6?

Michael Zaro	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
Ryan Micenko	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Jason Cannon	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>

Question Seven

Question 7: Plaintiff Fred Thomas brings a claim under Washington state law for false arrest. Did the Cities of either Fife or Lakewood, through the actions of their employees, cause Fred Thomas to be falsely arrested on May 24, 2013?

Yes ☒ No ☐

If you answered yes, go to Questions 7a. If you answered no, go directly to Question 8.

Question 7a. Which Defendant(s), through the actions of their employees, committed or caused the false arrest of Fred Thomas?

The City of Lakewood

Yes ☒

No ☐

The City of Fife

Yes ☐

No ☒

Question Eight

Question 8: Plaintiffs E.T. and Annalesa Thomas bring a claim under Washington state law for outrage against the City of Lakewood. Did the City of Lakewood, through the actions of its employees, intentionally or recklessly cause severe emotional distress to E.T. or Annalesa Thomas by outrageous conduct on May 24, 2013?

Yes ☒ No ☐

If you answered yes, go to Question 8a. If you answered no, go directly to Question 9.

Question 8a. Which of the Plaintiffs suffered severe emotional distress caused by the outrageous conduct of these Defendants?

E.T.

Yes ☒ No ☐

Annalesa Thomas

Yes ☒ No ☐

Question Nine

Question 9: Plaintiff E.T. brings a claim against the Cities of Fife and Lakewood under Washington state law for negligence in the investigation which separated him from his father. Did a negligent investigation by employees of the Cities of Fife or Lakewood cause the wrongful permanent removal of E.T. from his father Leonard Thomas?

Yes ☒ No ☐

If you answered yes, go to Questions 9a. If you answered no, go directly to Question 10.

Question 9a. Which Defendants are responsible for the negligence you found in Question 9?

The City of Lakewood

Yes ☒ No ☐

The City of Fife

Yes ☒ No ☐

Question Ten

Question 10: If you found in favor of any of the Plaintiffs on any claim, please answer the questions below for those Plaintiffs you found in favor of. Otherwise, please sign and return your verdict form. Take care to only award damages for claims on which you found liability.

10a. E.T.: For the claims you found in favor of E.T., what damages do you find for E.T. for each claim?

- Unreasonable seizure from his father (Question 1): \$ 500,000.00
- Deprivation of his familial relationship with Leonard (Question 3): \$ 2,750,000.00
- Unreasonable seizure of his house (Question 4): \$ ~~125,000.00~~ 125,000.00
- Unreasonable seizure of his dog (Question 5): \$ N/A
- Outrage (Question 8): \$ 125,000.00
- Negligent Investigation (Question 9): \$ 500,000.00

10b. Estate of Leonard Thomas: For the claims you found in favor of the Estate of Leonard Thomas, what damages do you find for the Estate of Leonard Thomas for each claim?

- Unreasonable seizure of his son (Question 1): \$ 750,000.00
- Excessive Force (Question 2): \$ 1,000,000.00
- Unreasonable seizure of his house (Question 4): \$ 125,000.00
- Unreasonable seizure of his dog (Question 5): \$ 10,000.00

10c. Annalesa Thomas: For the claims you found in favor of Annalesa Thomas, what damages do you find for Annalesa Thomas for each claim?

- Deprivation of her familial relationship with Leonard (Question 3): \$ 750,000.00
- Unreasonable seizure of her house (Question 4): \$ 500,000.00
- Outrage (Question 8): \$ 125,000.00

10d. Fredrick Thomas: For the claims you found in favor of Fredrick Thomas, what damages do you find for Fredrick Thomas for each claim?

- Deprivation of his familial relationship with Leonard (Question 3): \$ 750,000.00
- Unreasonable seizure of his house (Question 4): \$ 125,000.00
- Excessive force (Question 6): \$ 0.00
- False arrest (Question 7): \$ 500,000.00

Question Eleven

Question 11: Should punitive damages be assessed against any of the following Defendants? Answer only as to Defendants who you have found individually liable on one or more of Plaintiffs' constitutional claims (Questions 1-5).

Michael Zaro

Yes ☒ No ☐

If yes, state the amount of punitive damages: \$ 3,000,000.00

Michael Wiley

Yes ☒ No ☐

If yes, state the amount of punitive damages: \$ 1,500,000.00

Brian Markert

Yes ☒ No ☐

If yes, state the amount of punitive damages: \$ ~~1,750,000.00~~ *she*
\$ 2,000,000.00

Question Twelve

Question 12: Should punitive damages be assessed against any of the following Defendants? Answer only as to Defendants who you have found individually liable on Question 6.

Jason Cannon

Yes ☐

No ☒

If yes, state the amount of punitive damages: \$ N/A

Ryan Micenko

Yes ☐

No ☒

If yes, state the amount of punitive damages: \$ N/A

Date and sign the form and advise the Court that you have reached a verdict.

DATED this 14th day of July, 2017.

Presiding Juror